

FIRST REGULAR SESSION

SENATE BILL NO. 459

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHOEMYER.

Read 1st time February 7, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1704L.03I

AN ACT

To repeal sections 374.710, 374.715, 374.755, 374.787, and 374.789, RSMo, and to enact in lieu thereof ten new sections relating to bail bond agents, with a penalty provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 374.710, 374.715, 374.755, 374.787, and 374.789, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 374.707, 374.710, 374.715, 374.755, 374.761, 374.763, 374.773, 374.780, 374.787, and 374.789, to read as follows:

374.707. Upon notice of a forfeiture from the court, the director shall notify any general bail bond agent who is listed as having a forfeited bond. Such attempt by the director to notify the general bail bond agent shall be made by facsimile or electronic mail within forty-eight hours of the forfeiture being listed with the department, excluding official holidays and weekends.

374.710. 1. Except as otherwise provided in sections 374.695 to 374.775, no person or other entity shall practice as a bail bond agent or general bail bond agent, as defined in section 374.700, in Missouri unless and until the department has issued to him or her a license, to be renewed every two years as hereinafter provided, to practice as a bail bond agent or general bail bond agent. **The department shall include the photograph of the bail bond agent or general bail bond agent on the license.**

2. An applicant for a bail bond and general bail bond agent license shall submit with the application proof that he or she has received twenty-four hours of initial basic training in areas of instruction in subjects determined by the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

11 director deemed appropriate to professionals in the bail bond profession. Bail
12 bond agents and general bail bond agents who are licensed at the date which this
13 act becomes law shall be exempt from such twenty-four hours of initial basic
14 training.

15 3. In addition to the twenty-four hours of initial basic training to become
16 a bail bond agent or general bail bond agent, there shall be eight hours of
17 biennial continuing education for all bail bond agents and general bail bond
18 agents to maintain their state license. The director shall determine said
19 appropriate areas of instruction for said biennial continuing education. The
20 director shall determine which institutions, organizations, associations, and
21 individuals shall be eligible to provide the initial basic training and the biennial
22 continuing education instruction. The department may allow state institutions,
23 organizations, associations, or individuals to provide courses for the initial basic
24 training and the biennial continuing education training. The cost shall not
25 exceed two hundred dollars for the initial basic training and one hundred fifty
26 dollars for biennial continuing education.

27 4. Upon completion of said basic training or biennial continuing education
28 and the licensee meeting the other requirements as provided under sections
29 374.695 to 374.789, the director shall issue a two-year license for the bail bond
30 agent or general bail bond agent for a fee not to exceed one hundred fifty dollars.

31 5. **A licensee shall provide the name, address, and telephone**
32 **number of each employer for which he or she works or operates under**
33 **as an independent contractor to the department. A licensee shall have**
34 **a continuing duty to provide notice to the department should this**
35 **information change. It is unlawful for an agent to begin writing bond**
36 **as an agent under a new appointment with a different general bail bond**
37 **agent or insurance company unless such information with the**
38 **department has been updated.**

39 6. **For any new appointment of a bail bond agent, the bail bond**
40 **agent shall file an affidavit with the department and the appointing**
41 **general bail bond agent stating that to their knowledge there are no**
42 **outstanding premiums owed at the time of their new appointment. If**
43 **outstanding premiums are owed and the bail bond agent does not**
44 **satisfy such premium obligations or portion thereof that such agent is**
45 **liable for, the former general bail bond agent shall file notice, along**
46 **with supporting documents with the department, and provide such**

47 **notice to the bail bond agent and the newly appointing general bail**
48 **bond agent, stating under oath the fact that the bail bond agent has**
49 **failed to satisfy their obligations. Upon receipt of such notification and**
50 **supporting documents, the appointing general bail bond agent may**
51 **immediately cancel the newly appointed bail bond authority of such**
52 **agent. Such authority shall remain cancelled until all premiums are**
53 **paid.**

54 7. Nothing in sections 374.695 to 374.775 shall be construed to prohibit
55 any person from posting or otherwise providing a bail bond in connection with
56 any legal proceeding, provided that such person receives no fee, remuneration or
57 consideration therefor.

374.715. 1. Applications for examination and licensure as a bail bond
2 agent or general bail bond agent shall be in writing and on forms prescribed and
3 furnished by the department, and shall contain such information as the
4 department requires. Each application shall be accompanied by proof satisfactory
5 to the department that the applicant is a citizen of the United States, is at least
6 twenty-one years of age, has a high school diploma or general education
7 development certificate (GED), is of good moral character, and meets the
8 qualifications for surety on bail bonds as provided by supreme court rule. Each
9 application shall be accompanied by the examination [and], application fee set by
10 the department, **the results of a fingerprinting performed and submitted**
11 **in a manner approved by the highway patrol in accordance with section**
12 **43.543, RSMo, and the results of a criminal history record information**
13 **check processed by the highway patrol under sections 43.500 to 43.543,**
14 **RSMo.** Individuals currently employed as bail bond agents and general bail bond
15 agents shall not be required to meet the education requirements needed for
16 licensure pursuant to this section.

17 2. In addition, each applicant for licensure as a general bail bond agent
18 shall furnish proof satisfactory to the department that the applicant or, if the
19 applicant is a corporation[,] **writing surety on behalf of an insurance**
20 **company** that each officer thereof, has completed at least two years as a bail
21 bond agent, and that the applicant possesses liquid assets of at least [ten]
22 **twenty** thousand dollars, along with a duly executed assignment of [ten] **twenty**
23 thousand dollars to the state of Missouri. The assignment shall become effective
24 upon the applicant's violating any provision of sections 374.695 to 374.789. The
25 assignment required by this section shall be in the form and executed in the

26 manner prescribed by the department. The director may require by regulation
27 conditions by which additional assignments of assets of the general bail bond
28 agent may occur when the circumstances of the business of the general bail bond
29 agent warrants additional funds. However, such additional funds shall not
30 exceed twenty-five thousand dollars.

374.755. 1. The [department] **director** may [cause a complaint to be
2 filed with the administrative hearing commission as provided by chapter 621,
3 RSMo, against any holder of any license required by sections 374.695 to 374.775]
4 **suspend, revoke, refuse to issue, refuse to renew, censure, or limit a**
5 **license authorized under sections 374.695 to 374.775**, or **bar** any person
6 who has failed to renew or has surrendered his or her license for any [one or any
7 combination] of the following causes:

8 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or
9 alcoholic beverage to an extent that such use impairs a person's ability to perform
10 the work of the profession licensed under sections 374.695 to 374.775;

11 (2) Final adjudication or a plea of guilty or nolo contendere [within the
12 past fifteen years in a criminal prosecution under any state or federal law for a]
13 **to any** felony or [a] crime involving moral turpitude **under any state or**
14 **federal law** whether or not a sentence is imposed[, prior to issuance of license
15 date];

16 (3) Use of fraud, deception, misrepresentation or bribery in securing any
17 license or in obtaining permission to take any examination required pursuant to
18 sections 374.695 to 374.775;

19 (4) Obtaining or attempting to obtain any compensation as a member of
20 the profession licensed by sections 374.695 to [374.775] **374.789** by means of
21 fraud, deception or misrepresentation;

22 (5) Misappropriation of the premium, collateral, or other things of value
23 given to a bail bond agent or a general bail bond agent for the taking of bail,
24 [incompetency] **incompetence**, misconduct, gross negligence, fraud, or
25 misrepresentation in the performance of the functions or duties of the profession
26 licensed or regulated by sections 374.695 to 374.775;

27 (6) Violation of any provision of or any obligation imposed by the laws of
28 this state, department [of insurance] rules and regulations, or aiding or abetting
29 other persons to violate such laws, orders, rules or regulations, or subpoenas;

30 (7) Transferring a license or permitting another person to use a license
31 of the licensee;

32 (8) Disciplinary action against the holder of a license or other right to
33 practice the profession regulated by sections 374.695 to 374.789 granted by
34 another state, territory, federal agency or country upon grounds for which
35 revocation or suspension is authorized in this state;

36 (9) Being finally adjudged insane or incompetent by a court of competent
37 jurisdiction;

38 (10) Assisting or enabling any person to practice or offer to practice the
39 profession licensed or regulated by sections 374.695 to 374.789 who is not
40 currently licensed and eligible to practice pursuant to sections 374.695 to 374.789;

41 (11) Acting in the capacity of an attorney at a trial or hearing of a person
42 for whom the attorney is acting as surety;

43 (12) Failing to provide a copy of the bail contract, [renumbered]
44 **prenumbered** written receipt for acceptance of money, or other collateral for the
45 taking of bail to the principal, if requested by any person who is a party to the
46 bail contract, or any person providing funds or collateral for bail on the
47 principal's behalf; **or**

48 **(13) Failing to meet any of the qualifications for surety on bail**
49 **bonds as provided by supreme court rule.**

50 2. **If an action is initiated to suspend or revoke a license** after the
51 filing of [such] a complaint **under section 374.051**, the proceedings shall be
52 conducted in accordance with the provisions of chapter 621, RSMo. Upon a
53 finding by the administrative hearing commission that one or more of the causes
54 stated in subsection 1 of this section have been met, the director may suspend or
55 revoke the license or enter into an agreement for a [monetary or other penalty
56 pursuant to section 374.280] **consent order under section 374.280.**

57 3. In lieu of filing a complaint at the administrative hearing commission
58 **for suspension or revocation, after a hearing before the director, the**
59 **director may order other authorized discipline, or** the director and the
60 bail bond agent or general bail bond agent may enter into an agreement for a
61 [monetary or other penalty pursuant to section 374.280] **consent order under**
62 **section 374.780.**

63 4. [In addition to any other remedies available, the director may issue a
64 cease and desist order or may seek an injunction in a court of competent
65 jurisdiction pursuant to the provisions of section 374.046 whenever it appears
66 that any person is acting as a bail bond agent or general bail bond agent without
67 a license or violating any other provisions of sections 374.695 to 374.789] **Any**

68 **bail bond agent or general bail bond agent who has his or her license**
69 **revoked by the director shall immediately return such license to the**
70 **department.**

374.761. 1. **A duly licensed bail bond agent in good standing with**
2 **the department shall be qualified to write bail on behalf of a general**
3 **bail bond agent in every municipal or circuit court in this state in**
4 **which the general bail bond agent who employs the agent or directs the**
5 **agent as an independent contractor is duly licensed and qualified to**
6 **write bail as provided by supreme court rule.**

7 2. **It is unlawful for a bail bond agent writing on behalf of an**
8 **individual general bail bond agent to fail to clearly disclose to the**
9 **court, to the defendant and in the bond, the actual legal name of the**
10 **individual general bail bond agent on behalf of whom the agent is**
11 **acting.**

374.763. 1. **[If any final judgment ordering forfeiture of a defendant's**
2 **bond is not paid within a six-month period of time, the court shall extend the**
3 **judgment date or notify the department of the failure to satisfy such**
4 **judgment. The director shall draw upon the assets of the surety, remit the sum**
5 **to the court, and obtain a receipt of such sum from the court. The director may**
6 **take action as provided by section 374.755, regarding the license of the surety and**
7 **any bail bond agents writing upon the surety's liability.] If a person released**
8 **on bond fails to appear on the date set by the court, the clerk of the**
9 **court shall issue a summons directed to the general bail bond agent or**
10 **surety on the bond requiring them to appear before the court on a**
11 **certain return date to show cause why a bond forfeiture and final**
12 **judgment should not be issued against the general bail bond agent or**
13 **surety in favor of the state in the amount of the bond. Such summons**
14 **shall be served as in other cases under chapter 517, RSMo, at least**
15 **ninety days before the return date on the summons. The general bail**
16 **bond agent or surety shall have ninety days from such forfeiture**
17 **hearing date to return such defendant to custody. When the court**
18 **record indicates that the defendant is returned to custody in the**
19 **jurisdiction where such forfeiture hearing occurred, within the ninety-**
20 **day period, the clerk of the court shall enter minutes vacating the**
21 **forfeiture and exonerating the bond. If the defendant has been timely**
22 **returned to custody, but such fact is not reflected by the court records,**
23 **the court shall vacate the forfeiture and exonerate the bond.**

24 2. The department shall furnish to the presiding judge of each circuit
25 court of this state, on at least a monthly basis, a list of all duly licensed and
26 qualified bail bond agents and general bail bond agents whose licenses are not
27 subject to pending suspension or revocation proceedings, and who are not subject
28 to unsatisfied bond forfeiture judgments. In lieu of such list, the department may
29 provide this information to each presiding judge in an electronic format.

30 3. All duly licensed and qualified bail bond agents and general bail bond
31 agents shall be qualified, without further requirement, to write bail upon a
32 surety's liability in all courts of this state as provided in rules promulgated by the
33 supreme court of Missouri and not by any circuit court rule.

**374.773. Any licensed general bail bond agent or bail bond agent
2 who is arrested for a felony shall notify the director within ten days of
3 his or her arrest.**

**374.780. 1. If the director determines that a person has engaged,
2 is engaging in, or has taken a substantial step toward engaging in an
3 act, practice or course of business constituting a violation of sections
4 374.695 to 374.789 or a rule adopted or order issued pursuant thereto,
5 or that a person has materially aided or is materially aiding an act,
6 practice, omission, or course of business constituting a violation of
7 sections 374.695 to 374.789 or a rule adopted or order issued pursuant
8 thereto, the director may issue such administrative orders as
9 authorized under section 374.046. A violation of any of these sections
10 is a level one violation under section 374.049, except a violation of
11 section 374.761(b) is a level two violation.**

**2. If the director believes that a person has engaged, is engaging
13 in, or has taken a substantial step toward engaging in an act, practice
14 or course of business constituting a violation of sections 374.695 to
15 374.789 or a rule adopted or order issued pursuant thereto, or that a
16 person has materially aided or is materially aiding an act, practice,
17 omission, or course of business constituting a violation of sections
18 374.695 to 374.789 or a rule adopted or order issued pursuant thereto,
19 the director may maintain a civil action for relief authorized under
20 section 374.048. A violation of any of these sections is a level one
21 violation under section 374.049, except a violation of section 374.761(b)
22 is a level two violation.**

**374.787. 1. The director may [cause a complaint to be filed with the
2 administrative hearing commission as provided by chapter 621, RSMo, against**

3 any] **suspend, revoke, refuse to issue, refuse to renew, censure or limit**
4 **a** surety recovery agent **license authorized under sections 374.783 to**
5 **374.789, or bar** any person who has failed to renew or has surrendered his or her
6 license, for any [one or any combination] of the following causes:

7 (1) Violation of any provisions of, or any obligations imposed by, the laws
8 of this state, the department [of insurance] rules and regulations, or aiding or
9 abetting other persons to violate such laws, orders, rules, or regulations;

10 (2) [Final adjudication or a plea of] **Has been found guilty of or**
11 **pleaded** guilty or nolo contendere [in a criminal prosecution] **to any felony or**
12 **crime involving moral turpitude** under state or federal law [for a felony or
13 a crime involving moral turpitude,] whether or not a sentence is imposed;

14 (3) Using fraud, deception, misrepresentation, or bribery in securing a
15 license or in obtaining permission to take any examination required by sections
16 374.783 to 374.789;

17 (4) Obtaining or attempting to obtain any compensation as a surety
18 recovery agent by means of fraud, deception, or misrepresentation;

19 (5) Acting as a surety recovery agent or aiding or abetting another in
20 acting as a surety recovery agent without a license;

21 (6) Incompetence, misconduct, gross negligence, fraud, or
22 misrepresentation in the performance of the functions or duties of a surety
23 recovery agent;

24 (7) Having a license revoked or suspended that was issued by another
25 state.

26 2. **If an action is initiated to suspend or revoke a license**, after the
27 filing of [the] **a complaint under section 374.051**, the proceedings shall be
28 conducted in accordance with the provisions of chapter 621, RSMo. Upon a
29 finding by the administrative hearing commission that one or more of the causes
30 stated in subsection 1 of this section have been met, the director may suspend or
31 revoke the license or enter into an agreement for a [monetary or other penalty
32 pursuant to section 374.280] **consent order under section 374.780**.

33 3. In lieu of filing a complaint with the administrative hearing
34 commission **for suspension or revocation, after hearing before the**
35 **director, the director may order other authorized discipline**, or the
36 director and the surety recovery agent may enter into an agreement for a
37 [monetary or other penalty pursuant to section 374.280] **consent order under**
38 **section 374.780 or after hearing order any other authorized discipline**.

39 [4. In addition to any other remedies available, the director may issue a
40 cease and desist order or may seek an injunction in a court of law pursuant to
41 section 374.046 whenever it appears that any person is acting as a surety
42 recovery agent without a license.]

374.789. 1. [A person is guilty of a class D felony if he or she does not
2 hold a valid] **It is unlawful for any person to engage in any of the**
3 **following acts unless the person is licensed by the director as a surety**
4 **recovery agent [license or], a bail bond [license and commits any of the following**
5 **acts] agent, or a general bail bond agent:**

6 (1) Holds himself or herself out to be a licensed surety recovery agent
7 within this state;

8 (2) Claims that he or she can render surety recovery agent services; or

9 (3) Engages in fugitive recovery in this state.

10 2. **If the director determines that a person has engaged, is**
11 **engaging in, or has taken a substantial step toward engaging in an act,**
12 **practice or course of business constituting violation of this section or**
13 **a rule adopted or order issued pursuant thereto, or that a person has**
14 **materially aided or is materially aiding an act, practice, omission, or**
15 **course of business constituting a violation of this section or a rule**
16 **adopted or order issued pursuant thereto, the director may issue such**
17 **administrative orders as authorized under section 374.046. A violation**
18 **of any of these sections is a level three violation under section 374.049.**

19 3. **If the director believes that a person has engaged, is engaging**
20 **in, or has taken a substantial step toward engaging in an act, practice**
21 **or course of business constituting a violation of this section or a rule**
22 **adopted or order issued pursuant thereto, or that a person has**
23 **materially aided or is materially aiding an act, practice, omission, or**
24 **course of business constituting a violation of this section or a rule**
25 **adopted or order issued pursuant thereto, the director may maintain**
26 **a civil action for relief authorized under section 374.048. A violation of**
27 **any of these sections is a level three violation under section 374.049.**

28 4. **Any person who knowingly engages in any act, practice,**
29 **omission, or course of business in violation of this section is guilty of**
30 **a class D felony. If the offender holds a license or certificate of**
31 **authority under the insurance laws of this state, the court imposing**
32 **sentence shall order the director to revoke such license or certificate**

33 of authority.

34 5. The director may refer such evidence as is available
35 concerning violations of this chapter to the proper prosecuting
36 attorney, who with or without a criminal reference, or the attorney
37 general under section 27.030, RSMo, may institute the appropriate
38 criminal proceedings.

39 6. Nothing in this section shall limit the power of the state to
40 punish any person for any conduct that constitutes a crime under any
41 other state statute.

42 7. Any person who engages in fugitive recovery in this state and
43 wrongfully causes damage to any person or property, including, but not limited
44 to, unlawful apprehension, unlawful detainment, or assault, shall be liable for
45 such damages and may be liable for punitive damages.

✓

Bill

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